

PROCEEDINGS OF THE COMMON COUNCIL
IN REGULAR SESSION
TUESDAY, OCTOBER 26, , 1993

CITY OF FORT WAYNE, INDIANA
JOURNAL OF THE PROCEEDINGS
OF THE COMMON COUNCIL

THE COMMON COUNCIL OF THE CITY OF FORT WAYNE MET IN THE
COUNCIL CHAMBERS Tuesday EVENING October 26 , 19 93
IN Regular SESSION. PRESIDENT Mark E. GiaQuinta
IN THE CHAIR, COUNCIL ATTORNEY Stanley A. Levine , AND
Sandra E. Kennedy CITY CLERK, AT THE DESK, PRESENT THE
FOLLOWING MEMBERS _____ VIZ:

BRADBURY <u>Absent</u> ,	EDMONDS <u>P</u> ,	GiaQUINTA <u>Absent</u>
HENRY <u>P</u> ,	LONG <u>P</u> ,	LUNSEY <u>P</u> ,
RAVINE <u>P</u> ,	SCHMIDT <u>P</u> ,	TALARICO <u>P</u> ,

ABSENT: _____

COUNCILMEMBER: _____ , _____ ,
_____ , _____

THE MINUTES OF THE LAST REGULAR October 12 , 19 93
_____, 19 _____
SPECIAL _____ , 19 _____

SESSION HAVING BEEN DELIVERED TO THE COUNCIL, WERE, ON MOTION,
APPROVED AND PUBLISHED.

THE COUNCIL THEN ADJOURNED

CERTIFICATE

I hereby certify that I am the duly elected, acting and incumbent City Clerk of Fort Wayne, Indiana, and as such the custodian of the records of the Common Council of said City and that the above and foregoing is the true, full and complete record of the proceedings the Common Council of the City of Fort Wayne, Indiana, for its Regular Session, held on 26th day of October, 1993, that the numbered ordinances and resolutions shown therein were duly adopted by said Common Council on said date and were presented by me to the Mayor of the City of Fort Wayne and were signed and approved or disapproved by said Mayor and on the dates shown as to each such ordinance and resolution respectively; and that all such records, proceedings, ordinances and resolutions remain on file and record in my office.

WITNESS my hand and the official seal of the City of Fort Wayne, Indiana, this 2nd day of November, 1993.

Sandra E. Kennedy
City Clerk



THE CITY OF FORT WAYNE



Paul Helmke
Mayor

October 11, 1993

COMMUNICATIONS FROM THE CITY PLAN COMMISSION

The Common Council of the
City of Fort Wayne
City-County Building
One Main Street
Fort Wayne, IN 46802

Dear Councilmembers:

Attached hereto is the recommendation of the City Plan Commission on one (1) ordinance concerning the vacation of a dedicated utility easement.

The proposed ordinance is designated as:

Bill No. G-93-09-08

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this
11th day of October 1992.

Robert Hutner
Secretary

/pb

CC: File

FACT SHEET

G-93-09-08

BILL NUMBER

**Division of Community
Development & Planning**

BRIEF TITLE

APPROVAL DEADLINE

REASON

Utility Easement Vacation

DETAILS**Specific Location and/or Address**

A 15' x 300' utility easement running north/south between Lots 25 thru 34 in Squire's Second Addition.

Reason for Project

Circumstances have changed since the original platting and the easement is no longer needed for utilities.

Discussion (Including relationship to other Council actions)

20 September 1993 - Public Hearing

Solomon Lowenstein, Jr., attorney with offices at 503 W Wayne Street appeared before the Commission representing the petitioners LIUNA 213, Inc. Mr. Lowenstein stated that his client sold the south 25 feet of Lots 29 & 30 to St. Mary's Realty Inc in 1992. He stated that St. Mary's Realty Inc., developed a Walgreen's Drug Store on So Anthony Blvd. He stated as part of that sale St. Mary's applied for a vacation of that portion of the easement which was located on Lots 29 & 30 and the vacation petition was granted. He stated that it was their contention that the easement is not needed for any ingress or egress nor would the vacation have any impact on any property values in the area. The easement is not needed for any future growth, nor is it needed for any access to any public way or places. He stated that I&M advised them in 1992 that the easement for this property runs on the southern property line of Lots 29 & 30, which is perpendicular to the easement that they are requesting vacated. He stated that GTE also placed their utility easement

POSITIONS**RECOMMENDATIONS**

Sponsor	City Plan Commission
Area Affected	City Wide Other Areas
Applicants/ Proponents	Applicant(s) LIUNA 213, Inc City Department Other
Opponents	Groups or Individuals Basis of Opposition
Staff Recommendation	<input checked="" type="checkbox"/> For <input type="checkbox"/> Against Reason Against
Board or Commission Recommendation	By <input checked="" type="checkbox"/> For <input type="checkbox"/> Against <input type="checkbox"/> No Action Taken <input type="checkbox"/> For with revisions to conditions (See Details column for conditions)
CITY COUNCIL ACTIONS (For Council use only)	<input type="checkbox"/> Pass <input type="checkbox"/> Other <input type="checkbox"/> Pass (as amended) <input type="checkbox"/> Hold <input type="checkbox"/> Council Sub. <input type="checkbox"/> Do not pass

TAILS

there to service both parcels. He stated that Comcast and NIPSCO at that time indicated to St. Mary's Realty that they were not interested in using the easement. He stated at this point in time they have not contacted any of those 4 utility companies, but based upon the recommendation of the staff they would be willing to do so.

There was no one else present who spoke in favor of or in opposition to the proposed vacation.

27 September 1993 - Business Meeting

Motion was made and seconded to return the ordinance to the Common Council with a DO PASS recommendation contingent upon the petitioner providing any necessary utility easements or relocations.


Of the six (6) members present, five (5) voted for the motion, one (1) did not vote.

Motion carried.

POLICY/ PROGRAM IMPACT

Policy or Program Change	<input type="checkbox"/> No <input type="checkbox"/> Yes
Operational Impact Assessment	

(This space for further discussion)

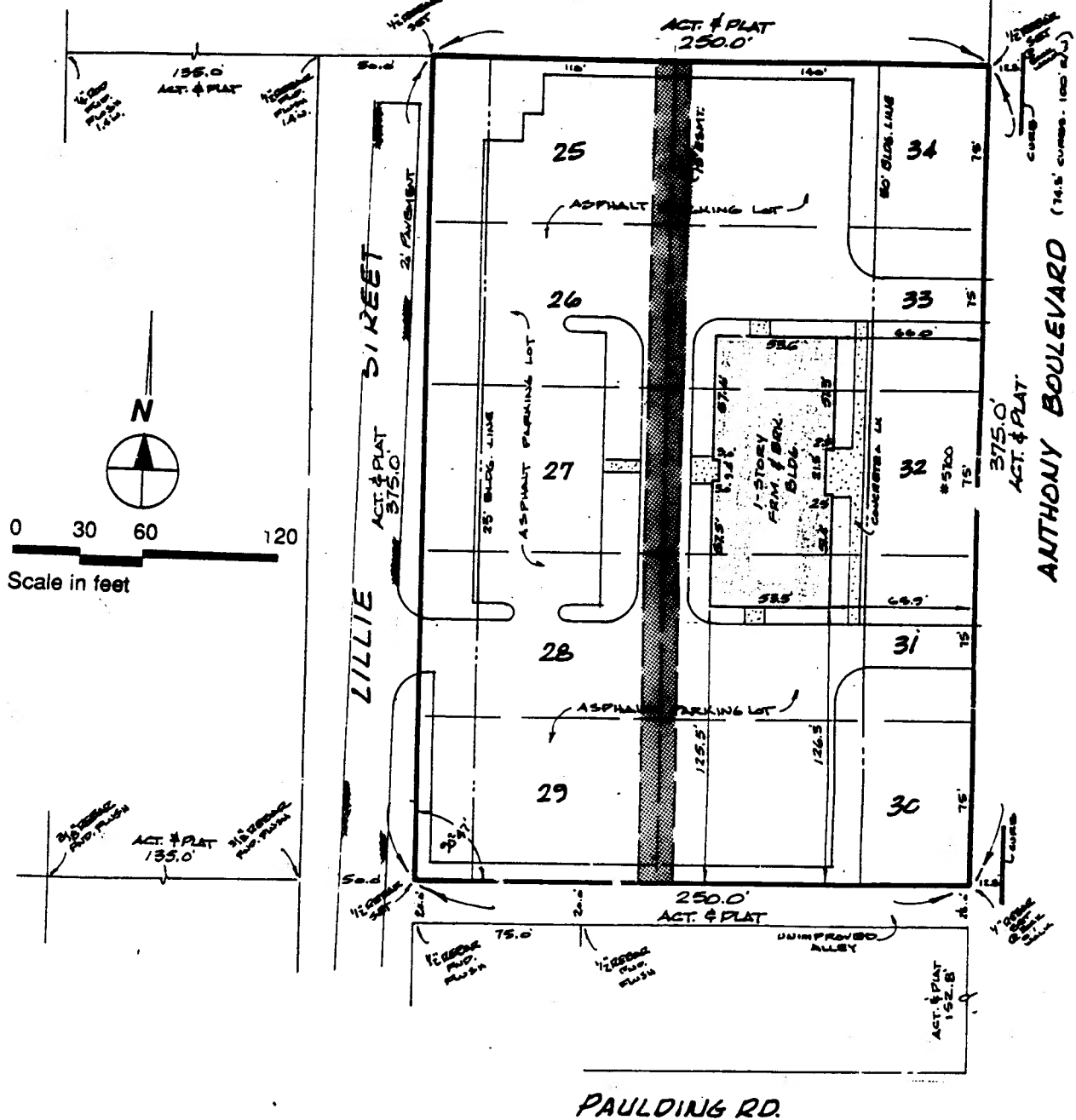
Project Start	Date	19 August 1993
Projected Completion or Occupancy	Date	11 October 1993
Fact Sheet Prepared by Patricia Biancaniello	Date	11 October 1993
Reviewed by 	Date	
Reference or Case Number		

VACATION PETITION

AREA MAP

CASE NO. #546

See Page 2 for Legal Description.



COUNCILMANIC DISTRICT NO. 6

Map No. O-19

LW 9-7-93

R1 One-Family
R2 Two-Family
R3 Multi-Family
RA/RB Residential
PUD Planned Unit Dev.

B1 Limited Business
B2 Planned Shopping Center
B3 General Business
b4 Roadside Business
POD Professional Office District

M1 Light Industrial
M2 General Industrial
M3 Heavy Industrial
MHP Mobile Home Park

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Solomon L. Lowenstein, Jr., attorney for LIUNA Local 213, Inc., requests the vacation of an utility easement.

Location: 5700 South Anthony Blvd.
Legal: See file
Land Area: Approximately 0.12 acres
Zoning: R-3
Surroundings: North B1B Commercial
South B1B Commercial
East B1B/RA Commercial
West R-1 Commercial & Residential

Reason for Request: Not stated on petition.

Neighborhood Assoc.: Mount Vernon Park

Neighborhood Plan: No comment.

Comprehensive Plan: No comment received.

Landscape: No comment.

Planning Staff Discussion:

This site is currently used as a union hall and offices. The easement runs north and south through an existing parking lot. Portion of this easement (to the south) were previously vacated in connection with the development of the Walgreens site.

The property is currently zoned R-3, but a rezoning petition has been submitted for the site. The easement is not needed for ingress or egress, nor will vacation impact any property values in the area. It does not appear that the easement is needed for future growth, nor access to any public ways or places.

Conjecture is that the easement was created when the addition was platted. The intervening years have seen many changes which negate the need for the easement. In 1992 the south 25 feet of this parcel was sold off to allow re-use of the adjoining property. At that time twenty-five feet of this easement along with an unopened alleyway were vacated.

Recommendation: Conditional Approval, contingent upon the petitioner providing any necessary utility easements or relocations, and for the following reasons:

- 1) Approval will not impact anyones access to public ways or places.
- 2) Approval will not have a negative impact on the area, or on property values within the area.
- 3) Circumstances have changed since the easement was originally created, no longer necessitating the need for the easement.

RESOLUTION 80-239-7

WHEREAS, LIUNA LOCAL 213, INC., has petitioned and requested the Fort Wayne City Plan Commission to hold a public hearing upon the vacation of the following dedicated utility easement situated in Fort Wayne, Allen County, to-wit:

A fifteen foot (15') by three hundred fifty-foot (350') easement. The southern twenty-five feet (25') from Lots 29 and 30 having been sold off. Commencing at the northern boundary line of Lots 25 and 34 and continuing in a southerly direction to the southern boundary line of Lots 29, Lots 25, 26, 27, 28, 31, 32, 33, 34 and the North 50 feet of Lot Numbers 29 and 30 in Squires Second Addition to the City of Fort Wayne, according to the plat thereof recorded in Plat Record 18, page 6, in the Office of the Recorder of Allen County, Indiana.

all in accordance with the terms of Section 44, Chapter 174 of the Acts of 1947, of the General Assembly of the State of Indiana, as amended by Section 3 of Chapter 385 of the Acts of the General Assembly of the State of Indiana, Indiana Code Section 36-7-4-12; and,

WHEREAS, notice of such public hearing has been given by due and proper publication thereof;

WHEREAS, said vacation of dedicated utility easement has been routed through the following departments: Street Engineering, Traffic Engineering, Water Pollution Control Engineering, Electrical Engineering, Park Board and through the Public Utility Companies.

NOW THEREFORE, BE IT RESOLVED by the Fort Wayne Board of Public Works that the vacation of said dedicated utility easement hereinbefore described conforms to the general policy and pattern of development set out in the Master Plan of the City of Fort Wayne, Indiana.

BE IT FURTHER RESOLVED by the Board of Public Works that the vacation of said dedicated utility easement hereinbefore described be and the same is hereby approved subject to easements as required by all public utilities occupying and using said portion of dedicated utility easement or part thereof for the vacation and operation of its utility facilities shall not be deprived of said use on account of these proceedings unless any said utilities shall file a written consent to said vacation.

STATE OF INDIANA))
COUNTY OF ALLEN) SS:


I, CHARLES E. LAYTON, Director of the Board of Public Works, do hereby certify that attached hereto is a full, true and correct copy of a resolution adopted by the Fort Wayne Board of Public Works at their meeting held WED. OCT. 6, 1993 and as same appears of record in the official records of the Board of Public Works.

DATED THIS 6 DAY OF OCTOBER 1993

FORT WAYNE BOARD OF PUBLIC WORKS

Charles E. Layton
Director of Public Works

Katherine A. Carrier
Member, Board of Public Works


C. James Owen
Member, Board of Public Works

RESOLUTION

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all in accordance with the terms of Section 44, Chapter 174 of the Acts of 1947, of the General Assembly of the State of Indiana, as amended by Section 3 of Chapter 385 of the Acts of 1963 of the General Assembly of the State of Indiana, Indiana Code, Section 36-7-4-12.

WHEREAS, notice of such public hearing has been given by due and proper publication thereof; and,

WHEREAS, said public hearing was held on September 20, 1993 at 7:00 P.M. and at such hearing there were no objections of any kind or character which should prevent the vacation of said dedicated utility easement.

WHEREAS, said vacation of dedicated utility easement has been routed through the following departments: Street Engineering, Traffic Engineering, Water Engineering, Water Pollution Control Engineering, Street Light Engineering, Park Board and through the Public Utility Companies.

NOW THEREFORE, BE IT RESOLVED by the Fort Wayne City Plan Commission that the vacation of said dedicated utility easement hereinbefore described conforms to the general policy pattern of development set out in the Master Plan of the City of Fort Wayne, Indiana;

BE IT FURTHER RESOLVED by the Fort Wayne City Plan Commission that the vacation of said dedicated utility easement hereinbefore described be and the same is hereby approved.

BE IT FURTHER RESOLVED no public utility occupying and using said dedicated utility easement or part thereof for the vacation and operation of its utility facilities shall be deprived of said use on account of these proceedings unless any said utility shall file a written consent to said vacation.

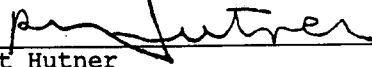
BE IT FURTHER RESOLVED that the action of the Fort Wayne City Plan Commission be forwarded to the proper governing body having jurisdiction of the vacation of said dedicated utility easement in Allen County, Indiana.

STATE OF INDIANA))
COUNTY OF ALLEN) SS:

I, Robert Hutner, Secretary of the Fort Wayne City Plan Commission, do hereby certify that attached is a full true and correct copy of a resolution adopted by the Fort Wayne City Plan Commission following a public hearing of said Commission held, September 27, 1993 and as the same appears of record in the official records of said Plan Commission.

DATED THIS 4th DAY OF October 1993

FORT WAYNE CITY PLAN COMMISSION



Robert Hutner
Secretary